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June 18, 2025

By ECF

Honorable Judge James R. Cho
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Nelson v. Akelius Real Estate Management LLC et al
Docket No.: 1:25-cv-03269 (JRC)

Dear Magistrate-Judge Cho:

I write on behalf of the defendants, Akelius Real Estate Management LLC, Viola Hubbard, Kimiya Khosravani, Marc Winn, and Maria Werner (collectively, “Defendants”). As Your Honor is aware, Defendants removed this case from Kings County Supreme Court on June 11, 2025, and are now seeking guidance from the Court regarding the obligation and timing of the Defendants to answer, move, or otherwise respond to Plaintiff’s Summons with Notice.

Fed. R. Civ. P. 81(c)(2)(C) provides that a responsive pleading must be filed within seven (7) days after the notice of removal is filed. The caselaw does not definitively answer whether this time frame applies to a case where removal is based on a Summons with Notice, though in the most recent case, the Court in *Stevens & Company, LLC v. Espat*, 2024 WL 4593645, at *2 (S.D.N.Y. Oct. 28, 2024), found that the defendant was not obligated to file a responsive pleading prior to the plaintiff’s filing of the complaint. *See also* *Suares v. Verizon Communs., Inc.*, 2012 U.S. Dist. LEXIS 143335, at *8-9 n.5 (S.D.N.Y. Sept. 12, 2012) (“a responsive pleading will be required under Rule 81(c) *only* when: the defendant is in receipt of the complaint; he has been served with a summons; *and* the complaint has been filed.”) (internal citations and quotations omitted) (emphasis added); *but see* *Fashakin v. Risk Mgmt. Alternatives*, 2005 U.S. Dist. LEXIS 60008 (E.D.N.Y. Apr. 28, 2005).

Out of an abundance of caution, to the extent that the Court deems the Summons with Notice as triggering the Defendants’ obligation to answer and/or move, then we would request 14 days to do so. To the extent that the Court does not deem the Summons with Notice as triggering the Defendants’ obligation to answer and/or move, then we would request an order directing Plaintiff to file a complaint within 30 days with Defendants’ time to answer and/or move extended to 14 days following the filing of the complaint. We have consulted with Plaintiff’s counsel who does not consent to the timeframes set forth in this letter.



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The Court's attention to this request is appreciated.

Respectfully submitted,

RIVKIN RADLER LLP

Barry I. Levy

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BIL/lg

Cc: All counsel (via ECF)